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US Wins WTO Case on Steel Dispute with Japan

Statement of USTR Spokesman:

“Today a World Trade Organization panel handed a victory to the United States, upholding a determination by the U.S. Department of Commerce and the U.S. International Trade Commission to leave in place an antidumping duty order on corrosion-resistant carbon steel flat products from Japan. The panel concluded that the U.S. action was consistent with U.S. WTO obligations, rejecting all of Japan’s challenges,” said Richard Mills, spokesperson for the Office of the U.S. Trade Representative.

Background

The panel findings are significant because they confirm that U.S. laws and regulations governing determinations by Commerce and the USITC to keep antidumping duties in place, which are made following what is known as a “sunset review,” comply with the WTO Antidumping Agreement. The panel agreed with the United States that: (1) neither the *de minimis* nor the negligibility standards that apply in investigations apply in sunset reviews; (2) automatic self-initiation of sunset reviews is consistent with the WTO Antidumping Agreement; and (3) U.S. administrative practice can only be challenged with respect to its application in a particular sunset review.

When an antidumping duty order is about to expire, the U.S. “sunset review” law requires that the Commerce Department examine whether dumping is likely to continue or recur if the duties are removed and that the USITC examine whether revocation of the order is likely to lead to continuation or recurrence of injury to the U.S. industry within the reasonably foreseeable future. In the case involving Japanese steel, the Commerce Department and the USITC determined that dumping and injury were likely to continue or recur absent the order. Therefore, the United States kept the duties in place.

On January 30, 2002, Japan requested WTO dispute settlement consultations with the United States regarding the U.S. system of sunset reviews. Consultations were unsuccessful, and a panel was established on May 22, 2002.

Japan claimed that the United States violated ten WTO provisions. The panel rejected each and every one of Japan’s claims, concluding that the United States had not violated the strict rules of

the WTO Antidumping Agreement.

Japan will have an opportunity to appeal today's report.

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